

## APPENDIX.

Alabama Constitution 1901, Article XII, Section 232:

“No foreign corporation shall do any business in this State without having at least one known place of business and an authorized agent or agents therein and without filing with the secretary of state a certified copy of its articles of incorporation or association. Such corporation may be sued in any county where it does business, by service of process upon an agent anywhere in the state. The legislature shall, by general law, provide for the payment to the State of Alabama of a franchise tax by such corporation, but such franchise tax shall be based on the actual amount of capital employed in this State. Strictly benevolent, educational or religious corporations shall not be required to pay such a tax.”

Alabama Code 1940, Title 7:

Section 123: *Action for wrongful act, omission, or negligence causing death.*—A personal representative may maintain an action, and recover such damages as the jury may assess in a court of competent jurisdiction within the State of Alabama, and not elsewhere for the wrongful act, omission, or negligence of any person or persons, or corporation, his or their servants or agents, whereby the death of his testator or intestate was caused, if the testator or intestate could have maintained an action for such wrongful act, omission or negligence, if it had not caused death. Such action shall not abate by the death of the defendant, but may be revived against his personal representative; and may be maintained, though there has not been prosecution, or conviction, or acquittal of the defendant for the wrongful act, or omission, or negligence; and the damages recovered are not subject to the payment of the debts or liabilities of the testator or intestate, but must be distributed according to the statute of distributions. Such action must be brought within two years from and after the death of the testator or intestate.

Section 193: *Service of process on corporation not qualified to do business in the state.*—Wherever a foreign corpo-

ration has carried on or transacted business in this state without qualifying to do business herein as is provided by the constitution and statutes of this state, and there is no agent, and process in actions at law cannot be served on such foreign corporation as is provided in the preceding section, then any legal process may be served upon any agent or servant of such foreign corporation who has made contracts for the corporation, or who did the act which constituted the doing of business in this state. This section, however, shall not be exclusive of any other mode of service of process in the cases herein provided for.

Section 199: *Service on non-resident operator or owners of motor vehicles.*—The operation by a nonresident of a motor vehicle on a public highway in this state, or the operation on a public highway in this state of a motor vehicle owned by any nonresident and being operated by such nonresident, or his, their or its agent, shall be deemed equivalent to an appointment by such nonresident of the secretary of state of the State of Alabama, or his successor in office, to be such nonresident's true and lawful agent or attorney upon whom may be served the summons and complaint in any action against such nonresident growing out of any accident or collision in which such nonresident may be involved while operating a motor vehicle on such public highway; or in which such motor vehicle may be involved while being operated on such public highway within the State of Alabama; and such operation shall be deemed a signification of such nonresident's agreement and equivalent to an appointment by such nonresident of the secretary of state of the State of Alabama, or his successor in office, to be such nonresident's true and lawful agent or attorney upon whom may be served all lawful process in any action or proceedings against such nonresident growing out of any accident or collision in which such nonresident may be involved while operating a motor vehicle on such public highway, or in which such motor vehicle may be involved while being operated on any such public highway in the State of Alabama, so that any such summons and complaint against such nonresident which is so served shall be of the same legal force and effect as if personally served

within the State of Alabama. Service of such process shall be made by leaving three copies of the summons and complaint, with a fee of three dollars, with the secretary of state of the State of Alabama, and such service shall be sufficient service upon such nonresident defendant; provided, that notice of such service and a copy of the summons and complaint are forthwith sent by registered mail to the defendant by the secretary of state of the State of Alabama, or his successor in office and the defendant's return receipt and the certificate of the secretary of state, or his successor in office, of the compliance herewith, which shall be filed in the office of the clerk of the court or in the court wherein said action may be pending. Such certificate of the secretary of state shall show the date of the mailing by registered mail of the notice of the service and copy of summons and complaint to such nonresident defendant, and the date of the receipt of the return card, and shall be signed by the secretary of state of the State of Alabama, or his successor in office; or, provided, that the secretary of state of the State of Alabama, or his successor in office, may give such nonresident defendant notice of such service upon the secretary of state of the State of Alabama in lieu of the notice of service hereinabove provided to be given, by registered mail, in the following manner: By causing or having a notice of such service and a copy of the summons and complaint served upon such nonresident defendant, if found within the State of Alabama, by any officer duly qualified to serve legal process within the State of Alabama, or if such nonresident defendant is found without the State of Alabama, by a sheriff, deputy sheriff, or United States Marshal or deputy marshal, or any duly constituted public officer qualified to serve like process in the state of the jurisdiction where such nonresident defendant is found; and the officer's return showing such service, when made, shall be filed in the office of the clerk of the court, or in the court wherein such action is pending, on or before the return day of the process, or within such further time as the court may allow; provided further that the secretary of state, or his successor in office, may require the plaintiff in such action to deposit two dollars addi-

tional with the secretary of state of the State of Alabama to cover costs and such officer's fee for serving such notice and process. And the court in which such action is pending may order such continuance or continuances as may be necessary to afford such nonresident defendant reasonable opportunity to defend the action. The fee of three dollars paid by the plaintiff to the secretary of state, required to be deposited with the secretary of state at the time of service, and the additional fee of two dollars if it is required to be deposited by the plaintiff with the secretary of state, shall be taxed as costs, if he prevails in the suit. The secretary of state shall keep on file in his office a copy of such summons and complaint and also keep a record of all such process which shall show the day and hour and manner of such service.

This section shall not apply to any foreign corporation that has qualified under the constitution and laws of this state as to doing business herein, and has designated and has and is maintaining at such time an authorized agent or agents residing in this state upon whom service can be had.

(1054)